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Attorneys for the entity and official capacity Defendants

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF WYOMING**

TRICIA WACHSMUTH,	)	
	)	
Plaintiff,	)	10-CV-041-J
	)	
vs.	)	
	)	
CITY OF POWELL, ET AL.	)	
	)	
Defendants.	)	

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**DEFENDANTS' SUPPLEMENTAL JOINT EXPERT WITNESS DESIGNATION**

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The Defendants hereby submit their supplemental expert witness designation in accordance with the Scheduling Order.

1. K. Thor Eells  
19875 Indian Summer Lane  
Monument, Colorado 80132  
Phone: (719) 310-7664

Mr. Eells is an expert in the area of law enforcement training and enforcement; specifically SWAT training, practice and procedure. He has a broad base of knowledge and expertise stemming from his extensive education, training and experience in this area. His experience and expertise in this area, as well as a review of the records and pleadings in this case, form the basis for Mr. Eells opinions. All opinions are to a reasonable degree of probability within the field. Mr. Eells' Curriculum Vitae, list of cases and fee schedule were attached to the preliminary designation.

Mr. Eells will testify that the actions of the officers in executing the warrant in question were reasonable, appropriate and well within the standard. Mr. Eells has reviewed all of the depositions taken in this case as well as the documentation presented to date. Mr. Eells will testify that the policies, procedures and training were appropriate. He will also testify that the amount of force and type of entry utilized were justified under the circumstances of this case. He will testify that use of a dynamic entry was reasonable as was the amount of time waited between the knock and announce and the entry. He will testify that the information provided by the confidential informant contained several accepted indicia or reliability. He will testify regarding the reasonableness of the use of the flashbang

device and the reasons that operations involving the elements in this case are considered very risky and potentially dangerous. He will testify about his experience with warrants involving similar facts to the ones in this case and the training and practices that have evolved out of the risks presented by these types of operations.

Mr. Eells will testify that the officers' actions, once in the residence, were reasonable and appropriate and consistent with standard police practice including the use of force in terms of pointing guns at the Plaintiff and the fact that the Plaintiff went downstairs. He will testify regarding the "OODA loop" and the fact that unexpected behaviors or actions result in a longer period of time to evaluate and act upon. He will also testify regarding the training officers receive with regard to drug warrants and tactical maneuvers and compare the actions of the officers to that training. He will also testify regarding debriefing and the purpose it serves as well as evaluations by the officers after the fact and the purpose it serves. He will further testify about the difference in perspective that officers in various positions bring to any given scenario and his opinion as to why those perspectives sometimes differ. He will testify that there are many ways to reasonably and appropriately approach executions of search warrants and the best approach depends upon various factors. He will also testify about the generally accepted definition of a SWAT team or tactical team and evaluate the Plaintiff's claims in this regard as well as the Sheriff Department's tactical team.

Mr. Eells final report is attached hereto as Exhibit A. His deposition has also been taken and is incorporated herein by reference. Mr. Eells will also testify in rebuttal to Plaintiff's expert's opinions and he reserves the right to testify in rebuttal of any testimony offered by any party at trial.

2. The Defendants:  
Tim Feathers  
Chad Miner  
Mike Cretien  
Roy Eckerdt  
Dave Brown  
Mike Hall  
Brett Lara  
Matt McCaslin  
Alan Kent  
Matthew Danzer  
Matt Brilakis  
Lee Blackmore  
Cody Bradley  
Kirk Chapman

The above listed individuals are all Defendants in this case and peace officers with education, training and experience in the area of police practice. They will testify that their actions were reasonable and appropriate. They may offer opinions about reasonable police practice and may also provide opinions and testimony about the training, policies and procedures of the police department.

The Defendants reserve the right to call the expert witnesses listed by the other parties in this case and rebuttal witnesses. The Defendants also reserve the right to call any witness necessary for foundation for any exhibit to be introduced at trial.

Dr. Miller conducted an IME of the Plaintiff and his report and CV have previously been filed with the Court. That designation is hereby incorporated in full into the Final Expert Witness Designation.

**DATED** this 21<sup>st</sup> day of January, 2010.

/s/ Misha Westby

Misha Westby, WSB No. 6-2826  
Senior Assistant Attorney General

/s/ Thomas A. Thompson

Thomas A. Thompson, WSB No. 6-2840  
MacPherson, Kelly & Thompson

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 21<sup>st</sup> day of January, 2010, the foregoing was filed electronically via CM/ECF which sent notification to the following individuals:

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/s/ Lee Ann Schutt

Office of the Wyoming Attorney General